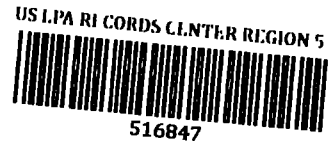


UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION



In re:)	Chapter 11
)	
Eagle-Picher Holdings, Inc., et al.,)	Jointly Administered
)	Case No. 05-12601
Debtors.)	
)	Judge Jeffrey P. Hopkins.

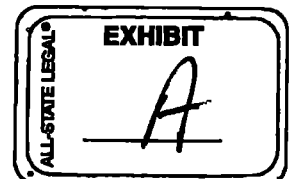
CUSTODIAL TRUSTEE'S MOTION FOR NON-ORAL HEARING BY THE BANKRUPTCY COURT OF MOTION BY WILLIAM L. WEST, CUSTODIAL TRUSTEE OF THE EP CUSTODIAL TRUST TO ENTER ORDER AMENDING CUSTODIAL TRUST ANR PROVIDE FOR A TRANSFER OF THE SUM OF \$100,000.00 FROM THE HILLSDALE TRUST ACCOUNT TO THE ADMINISTRATION TRUST ACCOUNT OF THE EP CUSTODIAL TRUST ("TRANSFER MOTION") (ECF NO. 3553)

1. Since William L. West, Custodial Trustee of the EP Custodial Trust, filed the Transfer Motion, the following four pleadings were filed in this case:

- a. ECF No. 3554: *Objection to Motion to Amend* ("EPMC Objection") filed on May 11, 2015;
- b. ECF No. 3565: *Reply to Objection Filed by Interested Party EPMC Holdings Corporation* ("West Reply") filed on May 28, 2015;
- c. ECF No. 3566: *Reply to Objection Filed by Interested Party EPMC Holdings Corporation* ("MDEQ Reply") filed on June 11, 2015; and
- d. ECF No. 3567: *Response to Motion to Amend* ("USEPA Reply") filed on June 11, 2015.

2. The entities which have which have standing to object to this Transfer Motion as Agency Beneficiaries, MDEQ and USEPA, support the relief requested in the Transfer Motion. Only EPMC Holdings Corporation ("EPMC") has objected to the Transfer Motion.

3. As set forth in MDEQ's Reply, neither the Custodial Trust nor the Michigan Settlement Agreement permits a payment of overfunding if there are Environmental Actions to be completed. MDEQ's approval of the Transfer Motion is significant and critical because



MDEQ is a Lead Agency for the Hillsdale Site and Agency Beneficiary under the Custodial Trust.

2. As set forth in the USEPA Reply, Section 4.3 of the Custodial Trust indicates that if the Custodial Trustee were removed for cause, trust funds would be turned over to the Lead Agency to continue Environmental Actions consistent with the terms of the Custodial Trust. This argument is consistent with the claim of the Custodial Trustee that so long as there Environmental Actions to be completed, EPMC has no claim to any funds in the Custodial Trust.

3. Further, EPMC does not have standing to object to the Transfer Motion for three additional reasons:

A. The Settlement Agreement that was attached and approved by the Agreed Order (ECF No. 3523) included the release of the Custodial Trust and the Custodial Trustee by EPMC as of March 28, 2013 (ECF No. 3523). As the remediation of the Hillsdale site has been ongoing since the Fall of 2006, the testimony described in the Opposition should not be permitted in view of the Release which was absolute, broad and unconditional.

B. Because the Costs for the Environmental Action will exceed the balance in the Hillsdale Account, EPMC has no standing to oppose the Transfer Motion because all of the remaining Trust funds are needed to cover the cost of Environmental Actions.

C. The Custodial Trustee is given exceedingly broad powers under the Custodial Trust and is not required to justify his decisions involving Environmental Actions (Custodial Trust, Section 5.1, 5.2, MDEQ Reply, p. 8). A review of the EPMC Opposition foretells a hearing where EMPC would

attempt to Monday morning quarterback the decisions by the Custodial
Trustee at the Hillsdale site for no good reason.

6. The Custodial Trustee suggests that there may be sufficient data and argument for the Bankruptcy Court to dispose of the Transfer Motion without the oral hearing, particularly in view of the MDEQ Reply and the USEPA Reply which unequivocally support the Custodial Trustee and the Transfer Motion. Further, the Custodial Trustee seeks to avoid the expense of traveling to Cincinnati for this hearing, if the Court deems a non-oral hearing to be proper under the circumstances of this matter.

Respectfully submitted,

/s/ M. Colette Gibbons
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this ____ day of June, 2015 a true and correct copy of the foregoing *CUSTODIAL TRUSTEE'S MOTION FOR NON-ORAL HEARING BY THE BANKRUPTCY COURT OF MOTION BY WILLIAM L. WEST, CUSTODIAL TRUSTEE OF THE EP CUSTODIAL TRUST TO ENTER ORDER AMENDING CUSTODIAL TRUST AND PROVIDE FOR A TRANSFER OF THE SUM OF \$100,000.00 FROM THE HILLSDALE TRUST ACCOUNT TO THE ADMINISTRATION TRUST ACCOUNT OF THE EP CUSTODIAL TRUST ("TRANSFER MOTION")* was filed electronically this 24th day of June, 2015. Notice of this

filing will be sent to all parties *via* the Court's electronic filing system. Parties may access this filing through the Court's system.

In addition, the following parties were served *via* Federal Express:

EPMC Holdings Corporation
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/s/ M. Colette Gibbons
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